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PTO/SB/21 (08-00)

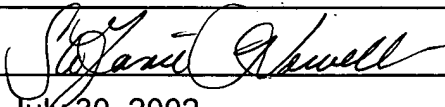
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<h1>TRANSMITTAL FORM</h1> <p>(to be used for all correspondence after initial filing)</p>	Application Number	09/701,797	
	Filing Date	December 1, 2000	
	First Named Inventor	Clifford L. Hersh	
	Group Art Unit	Unknown	
	Examiner Name	Unknown	
Total Number of Pages in This Submission	9	Attorney Docket Number	PA1675US

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Renewed Petition 37 CFR 1.137(b) <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Postcard Declaration of Clifford Hersh
Remarks Total page number does not include postcard.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Carr & Ferrell, LLP Cust. No. 22830
Signature	 Reg. No. 45,929
Date	July 30, 2002

CERTIFICATE OF EXPRESS MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to: Assistant Commissioner for Patents, Box PCT, Washington, DC 20231 on this date: <u>July 30, 2002</u>			
Typed or printed name	Stefanie M. Howell		
Signature		Date	July 30, 2002

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**DECLARATION FOR UTILITY OR
DESIGN
PATENT APPLICATION
(37 CFR 1.63)**

☐ Declaration Submitted with Initial Filing OR ☒ Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number	PA1675US
First Named Inventor	Clifford L. Hersh
COMPLETE IF KNOWN	
Application Number	09/701,797
Filing Date	December 1, 2000
Group Art Unit	unknown
Examiner Name	unknown

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Method For Increased Concurrency In A Computer System

(Title of the Invention)

the specification of which

☐ is attached hereto
OR

☒ was filed on (MM/DD/YYYY) 12/01/2000 as United States Application Number or PCT International

Application Number 09/701,797 and was amended on (MM/DD/YYYY) (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 118(a)-(d) or 365(b) of any foreign application(s) for patent or inventor's certificate, or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				YES	NO
PCT/US99/12433	PCT	06/03/1999	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

I hereby claim the benefit under 35 U.S.C. 119(e) of any United States provisional application(s) listed below.

Application Number(s)	Filing Date (MM/DD/YYYY)	<input type="checkbox"/> Additional provisional application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.
60/087,891	06/03/1998	

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DECLARATION — Utility or Design Patent Application

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Correspondence address below

22830

PATENT TRADEMARK OFFICE

Name

Address

Address

City

State

ZIP

Country

Telephone

Fax

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR :



A petition has been filed for this unsigned inventor

Given Name Clifford L.
(first and middle [if any])

Family Name Hersh
or Surname

Inventor's
Signature

Clifford Hersh

Date 10/11/001

Residence: City Berkeley

State CA

Country USA

Citizenship USA

Mailing Address 2631 Piedmont Ave

Mailing Address

City Berkeley

State CA

ZIP 94704

Country USA

NAME OF SECOND INVENTOR:



A petition has been filed for this unsigned inventor

Given Name Herbert W.
(first and middle [if any])

Family Name Sullivan
or Surname

Signature of Joan Todd (representative of Herbert Sullivan), along with her address and citizenship appear on page 2 of Declaration

Inventor's
Signature

Date n/a

Residence: City New York

State NY

Country USA

Citizenship USA

Mailing Address 205 West End Avenue

Mailing Address Apt. 22E

City New York

State New York

ZIP 10023

Country USA

☐ Additional Inventors are being named on the _____ supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto.


IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE

APPLICANTS: HERSH, CLIFFORD L.
SERIAL NO.: 09/701,797
FILING DATE: December 1, 2000
TITLE: Method for Increased Concurrency In a Computer System
EXAMINER: Unknown
ART UNIT: Unknown
ATTY. DKT. NO.: PA1675US

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail in an envelope addressed to: Attention: Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, Attention: PCT Legal Office, on July 30, 2002.

Date: 7/30/02
July 30, 2002

Signed: 
Stefanie Howell

Assistant Commissioner for Patents
Box PCT
Washington, DC 20231
Attention: PCT Legal Office

Renewed Petition Under 37 CFR 1.137(b)

10/07/2002 3FREY1 00000001 060600 09701797
01 72:122 SIR 30.00 CH

In response to the Decision on Petition under 37 CFR 1.137(b), mailed May 31, 2002, please consider the following request for reconsideration of the Petition for Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b).

PETITION INCLUDING PROOF OF PERTINENT FACTS

On 03 June 1999, applicant filed international application PCT/US99/12433, which claimed priority of an earlier application filed 03 June 1998. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 03 December 2000.

On 01 December 2000, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee and a power of attorney executed by inventor Clifford Hersh. The present application includes both Clifford L. Hersh and Herbert W. Sullivan as inventors. Herbert Sullivan was a primary founder of the assignee company. Prior to filing the PCT application, Mr. Sullivan passed away. Accordingly, the filing documentation for the PCT listed Joan Todd as the legal representative of Herbert W. Sullivan, inventor, along with Clifford Hersh, also listed as applicant and inventor. Accordingly, Clifford Hersh and Joan Todd were applicants for the United States only. Clifford Hersh holds the position of chief scientist for the assignee company.

A missing requirements notification, including a notification of a defective oath or declaration, was mailed rejecting the declaration for not identifying the citizenship of each inventor pursuant to 37 CFR 1.497(a) as well as the city and state or city and foreign country of residence of each inventor pursuant to 37 CFR 1.63. Newly executed declarations were filed in response to the missing requirements notification listing Clifford L. Hersh as first named inventor. These newly executed declarations were filed for Joan Todd (representing inventor Herbert W. Sullivan) and Clifford L. Hersh as separate declarations, the residences and countries of citizenship of both parties set forth in the separate declarations. Applicant believed in good faith that these declarations were in compliance with 37 CFR 1.497(a) and 1.63, since applicants corrected the previous omission of the residence and country

of citizenship with respect to Mrs. Todd. These declarations were deemed as not in compliance with 37 CFR 1.497(a) for failure to list *both* applicants on *both* declarations, set forth in a notification of a defective response, including a notification of a defective oath or declaration.

The present application was abandoned by the Elected office for failure of applicants to respond properly to the notification of a defective response, according to the original mailing date of the notification of missing requirements on January 11, 2001. A Petition For Revival Of An application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) was submitted on October 19, 2001, including another newly executed declaration from Clifford L. Hersh and the previously submitted declaration from Joan Todd (representing Herbert W. Sullivan).

The declaration signed by Clifford L. Hersh was a separate declaration, executed on October 11, 2001, labeled pages 3 and 4. The declaration listed Clifford L. Hersh as first inventor and Herbert W. Sullivan as a second inventor, with a notation in the inventor's signature line that the "signature of Joan Todd (representative of Herbert Sullivan), along with her address and citizenship appear on page 2 of declaration." The last known address and country of citizenship of Herbert Sullivan appears in the area for "name of second inventor" on the declaration of Mr. Hersh.

The previously submitted declaration signed by Joan Todd on January 30, 2001 was labeled pages 1 and 2. The declaration listed Clifford L. Hersh as first named inventor in the space provided therefor. Applicant believed that the submission of the four pages as a whole constituted a complete reply to the outstanding Notification of a Defective Oath or Declaration mailed on February 23, 2001. The PCT Legal Office did not grant the petition for revival, noting that applicants did not submit a compliant declaration.

Sometime between Joan Todd's (representing inventor Herbert W. Sullivan) signing of the declaration and the present, Mrs. Todd passed away. A repeated lack of response from Mrs. Todd, resulting in unintentional abandonment of the present application, brought about an inquiry as to Mrs. Todd's status. Applicants filed the previous Petition for Revival and four page declaration under the good faith belief that the documents would satisfy the defects noted in the Missing Notification of Defective Oath or Declaration.

The PCT Legal Office has been contacted on various occasions in order to attempt to resolve the issues with respect to the claimed defective oath or declaration. A telephone conference with Derek Putonen on June 28, 2002, resulted in a confirmation that the declaration of Clifford L. Hersh is acceptable, but that of Joan Todd is defective for listing Mr. Hersh as the first inventor, and then listing Herbert Sullivan in the first inventor block, the second signature block being blank. This telephone conference further resulted in a recommendation to utilize 37 CFR 1.47(a) regarding unavailable inventors. However, the same telephone conference ultimately ended with a referral to another source in the PCT Legal Office with more familiarity of oath and declaration details. A telephone conference with Boris Milef on July 12, 2002 resulted in a similar confirmation that only Joan Todd's declaration is defective and that 37 CFR 1.47(a) should be utilized to resolve this issue.

Mrs. Todd is no longer available to re-execute a new declaration. Applicant submits that the single declaration by Clifford L. Hersh, filed as pages 3 and 4, executed on October 11, 2001, satisfies the requirements of oaths or declarations pursuant to CFR 1.497(a) and 1.63. Applicant respectfully submits that such declaration, a copy of which is attached hereto, further complies with the requirements under CFR 1.47(a). Moreover, the PCT Legal Office, through various conversations with our office, has confirmed that Mr. Hersh's declaration is not defective.

CFR 1.47(a) provides that "application may be made by the other inventor on

behalf of himself or herself and the nonsigning inventor" if a joint inventor cannot be found or reached after diligent effort. In this case, both Herbert W. Sullivan and his legal representative Joan Todd have passed away. A series of attempts to contact Joan Todd went unanswered, resulting in the discovery that Mrs. Todd was deceased. Accordingly, diligent efforts to reach Mrs. Todd were made. In accordance with the requirement that the last known address of the nonsigning inventor be provided, both Herbert W. Sullivan's last known address has been provided on the declaration including Mr. Hersh's signature. With respect to the requirement that a petition including proof of the pertinent facts be provided, Applicant respectfully requests that the present facts and discussion section be regarded as proof of the pertinent facts.

CONCLUSION

In view of the foregoing, Applicant respectfully submits that the declaration executed by Clifford L. Hersh on October 11, 2001 complies with CFR 1.63 and 1.497(a). Accordingly, a decision in favor of a revival of the present application is respectfully requested.

If the Examiner believes that a conference would facilitate prosecution of this application, the Examiner is invited to telephone Applicant's representative, undersigned, at the number set out below.

Respectfully submitted,
Clifford L. Hersh

Date: 7/30/02

By: 
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